

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY SESSION, 1995

FILED

June 10, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE)
)
 APPELLEE)
)
 VS.)
)
 EDWINA PASCHAL,)
)
 APPELLANT)

NO. 02C01-9411-CR-00247

SHELBY COUNTY

HON. ARTHUR T. BENNETT,
JUDGE

(Revocation of Probation)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

JERRY SCOTT, SPECIAL JUDGE

OPINION

Pursuant to her plea of guilty of the offense of theft of property valued at under \$10,000.00, the appellant was sentenced to serve two years in the Shelby County Correctional Center. Her petition for judicial diversion was granted and her sentence was deferred until March 13, 1997. However, the State filed a petition to revoke the suspended sentence which was granted after the trial judge heard testimony from the probation officer and the appellant.

The proof revealed that she was placed under the probation officer's supervision on January 25, 1993. She did not report or "maintain required contact with the Probation Department" as required by the rules set forth in her order of deferment. Her failure continued from April 15, 1993 until late August 1993. The only reason she gave the probation officer for not reporting was that she "just didn't get in." At the hearing she presented no better explanation.

If the trial judge finds by a preponderance of the evidence that one on probation or judicial diversion has violated the conditions of her probation or diversion, the judge can revoke the suspension of sentence and cause the probationer or diverttee to serve the sentence as originally entered. Tenn. Code Ann. § 40-35-311(d).

There was abundant evidence that this appellant violated a very basic condition of her judicial diversion and there was no error in the judge's determination that the largesse of the law extended to her should be terminated and that she should be required to serve her sentence.

The judgment is affirmed.

JERRY SCOTT, SPECIAL JUDGE

CONCUR:

JOSEPH M. TIPTON, JUDGE

DAVID H. WELLES, JUDGE